



## Judgments concerning Armenia, Bulgaria, Georgia, Italy, Poland, Russia, Serbia and the United Kingdom

The European Court of Human Rights has today notified in writing the following 13 judgments, two of which (in italics) are Committee judgments and are final. The others are Chamber judgments<sup>1</sup> and are not final.

Repetitive cases<sup>2</sup> and length-of-proceedings cases, with the Court's main finding indicated, can be found at the end of the press release. The judgments in French are indicated with an asterisk (\*).

### Gabrielyan v. Armenia (application no. 8088/05)

The applicant, Artak Gabrielyan, is an Armenian national who was born in 1938 and lives in Yerevan. A campaigner for the main opposition party in Armenia, Mr Gabrielyan was arrested on 8 April 2004 in Yerevan where he was handing out leaflets to encourage participation the next day in a protest rally. He was subsequently charged and convicted in June 2004 of calling for a violent overthrow of the government. He was given a one year suspended sentence and released. Mr Gabrielyan's case notably concerned his complaint that the State-appointed lawyer in the proceedings against him had failed to provide adequate legal assistance, and notably had not even met or spoken with him in private. He also complained that he had not been given the opportunity to cross-examine witnesses on whose statements his conviction was based. He relied, in particular, on Article 6 §§ 1 and 3 (c) and (d) (right to a fair trial, right to legal assistance of own choosing and right to obtain attendance and examination of witnesses) of the European Convention on Human Rights.

**No violation of Article 6 § 1** (right to a fair trial) taken together with Article 6 § 3 (c) (right to legal assistance)

**Violation of Article 6 § 1** (right to a fair trial) taken together with Article 6 § 3 (d) (right to examine witnesses)

**Just satisfaction:** EUR 2,500 (non-pecuniary damage) and EUR 1,600 (costs and expenses)

### Hakobyan and Others v. Armenia (no. 34320/04)

The applicants, Hakob Hakobyan, Gor Martirosyan and Hamlet Petrosyan, are Armenian nationals who were born in 1967, 1969 and 1956, respectively. They live, respectively, in the town of Armavir and the villages of Nairi and of Nalbandyan (Armenia). Members of the main opposition parties, they alleged that they had all been arrested in March/April 2004, and placed in administrative detention for periods of between four and

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

seven days both as punishment for their political allegiance and to prevent them from attending imminent opposition protest rallies in Yerevan. They relied, in particular, on Article 11 (freedom of assembly and association) of the Convention. Further relying, in particular, on Article 5 (right to liberty and security), they also alleged that their detention had been unlawful and arbitrary, the offences they had supposedly committed having been fabricated. They further complained about the unfairness of the administrative proceedings against them, notably that their cases had been examined in an expedited procedure, therefore not giving them adequate time and facilities for the preparation of their defence, in breach of Article 6 §§ 1 and 3 (b) (right to a fair trial). Lastly, under Article 2 of Protocol No. 7 (right of appeal in criminal matters), they complained that they had no right to appeal against their convictions.

#### **Violation of Article 11**

#### **Violation of Article 5 § 1**

**Violation of Article 6 § 1** (right to a fair trial) taken together with Article 6 § 3 (b) (right to have afforded adequate time and facilities for the preparation of defence)

#### **Violation of Article 2 of Protocol No. 7**

**Just satisfaction:** EUR 7,000 (non-pecuniary damage) to each applicant and EUR 7,000 (costs and expenses) jointly to the applicants

### **Bekauri v. Georgia (no. 14102/02)**

The applicant, Pridon Bekauri, is a Georgian national who was born in 1977 and is currently detained in Ksani prison no. 7 (Georgia) for the murder of a police officer. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained that his imprisonment for life had amounted to inhuman and degrading treatment.

**The Court upheld the Government's preliminary objection as to abuse of the right of petition (Article 35 § 3) and held that it was unable to take cognisance of the merits of the case.**

### **Lorenzetti v. Italy (no. 32075/09)\***

The applicant, Pietro Lorenzetti, was born in 1963 and lives in Syracuse. He is a doctor. He was arrested on 19 December 2000 in connection with allegations of having defrauded the hospital where he worked. He was placed in pre-trial detention on grounds that there was substantial evidence against him, in particular in connection with suspicions that he had received his doctor's salary without being at work. Having been acquitted on appeal, Mr Lorenzetti complained about the rejection of his application for compensation for "unfair" detention. Under Article 6 § 1 (right to a fair trial), he complained, in particular, that the hearings had not been public.

**Violation of Article 6 § 1** (public hearing with the Court of Appeal)

**Just satisfaction:** EUR 2,500 (costs and expenses)

### **Bar-Bau Sp. z o. o. v. Poland (no. 11656/08)\***

The applicant, Bar-Bau Sp. z o. o., is a Polish company operating in the building sector whose registered office is in Warsaw. Relying on Article 6 § 1 (right of access to a court), the applicant company complained about the dismissal of its appeal on points of law in criminal proceedings brought against its director and sole shareholder. It alleged, mainly, that the statutory exhaustive list of conditions of admissibility of an appeal on points of law and the allegedly arbitrary examination of its appeal had deprived it of its right of access to a court.

**Violation of Article 6 § 1****Just satisfaction:** EUR 4,000 (non-pecuniary damage)**Andreyeva v. Russia (no. 73659/10)**

The applicant, Mariya Andreyeva, is a Russian national who was born in 1918 and lives in St Petersburg. She holds a number of USSR premium bonds issued in 1982 and deposited in 1986 with Sberbank. Relying on Article 1 of Protocol No. 1 (protection of property), she complained that, despite a court judgment of 2003 acknowledging her right to 84 promissory notes worth 3,185 "promissory roubles", she had been unable to receive any money from the State.

**Violation of Article 1 of Protocol No. 1****Just satisfaction:** EUR 4,300 (pecuniary and non-pecuniary damage)**Shchebetov v. Russia (no. 21731/02)**

The applicant, Anatoliy Shchebetov, is a Russian national who was born in 1972 and lived until his arrest in the town of Yakutsk. After spending a few years in prison for theft and robbery, in April 2005 he was sentenced anew to nine years' imprisonment for aggravated robbery. He was found to have tuberculosis and HIV when tested in prison in 1998 and 2002 respectively, while his earlier medical tests of 1997, when he had been in a temporary detention facility, had been negative. Relying in particular on Article 2 (right to life), he complained that he had been infected with HIV and tuberculosis in detention.

**No violation of Article 2** (applicant's contraction of the HIV virus in detention)**No violation of Article 2** (investigation into the applicant's complaint concerning his infection with HIV)**Juhas Đurić v. Serbia (no. 48155/06)**

The applicant, Viktor Juhas Đurić, is a Serbian national who was born in 1966. He is a practising lawyer and lives in Subotica, Serbia. Following a complaint against Serbia which he had brought in 2006 to the Court, the Court found, in a judgment of June 2011, that his right of access to a court under Article 6 § 1 had not been breached. Mr Đurić claimed that the Serbian Government had omitted jurisprudence from this judgment which would have been decisive for the outcome of his case and he therefore requested under Rule 80 of the Rules of Court for this judgment to be revised.

**The Court rejected the applicant's request for revision.****Woolley v. the United Kingdom (no. 28019/10)**

The applicant, Raymond Woolley, is a British national who was born in 1953 and is currently detained at HMP Dovegate, Uttoxeter (the United Kingdom). Convicted for conspiracy to cheat the public revenue in December 2002, he was sentenced to nine years' imprisonment. A confiscation order of about nine million British pounds was also made in respect of his conviction, with four years' imprisonment to be served in default of payment. In February 2005 he walked out of an open prison and fled to Switzerland. He was arrested there in June 2008 at the request of the British authorities and diplomatic communication took place between the two authorities regarding the possibility of Mr Woolley serving the default term of imprisonment for failure to pay the compensation order. He was eventually extradited to the United Kingdom in March 2009 and was subsequently detained pursuant to the default term. Relying on Article 5 § 1 (right to liberty and security), he complained that, once returned to the United Kingdom,

he had not only been dealt with for the offences for which he had been extradited, in breach of the rule of specialty. He therefore alleged that the subsequent enforcement of the default term of imprisonment and his ensuing detention had been unlawful.

### **No violation of Article 5 § 1**

#### Repetitive cases

The following cases raise issues which have already been submitted to the Court.

#### ***Dimitar Vasilev v. Bulgaria*** (no. 10302/05)

The applicant, Dimitar Vasilev, is a Bulgarian national who was born in 1982 and is currently serving a prison sentence in Plovdiv (Bulgaria). Relying on Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy), he complained about the excessive length of criminal proceedings brought against him between 2001 and 2007 on theft charges. Further relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Mr Vasilev complained that, in another set of criminal proceedings brought against him in 2004 for robbery and fraud, it had taken the domestic courts 28 days to rule on a request he made in March 2005 to be released from pre-trial detention. He further alleged that domestic law did not provide for compensation for any failure to review an accused's request for release in good time, in breach of Article 5 § 5 (enforceable right to compensation). He was sentenced to one and half years' imprisonment in the former case and six years in the latter case. Lastly, relying on Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy), he complained that the Plovdiv prison authorities had monitored correspondence between him and his lawyer.

#### **Violation of Article 6 § 1**

**Violation of Article 13** in conjunction with Article 6 § 1

#### **Violation of Article 5 § 4**

#### **Violation of Article 5 § 5**

#### **Violation of Article 8**

**No violation of Article 13** in conjunction with Article 8

#### ***Kochalidze v. Russia*** (no. 44038/05)

#### ***Pellya v. Russia*** (no. 16869/08)

#### ***Russkikh v. Russia*** (no. 44595/05)

In the following cases, the applicants complained in particular under Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property) about the non-enforcement (nos. 44038/05 and 44595/05) or delayed enforcement (no. 16869/08) of judgments in their favour.

#### **Violation of Article 6 § 1**

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